

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:18-cr-02945-WJ

JANY LEVEILLE,
SIRAJ IBN WAHHAJ,
HUJRAH WAHHAJ,
SUBHANAH WAHHAJ, and
LUCAS MORTON,

Defendants.

ORDER AND NOTICE OF HEARING

THIS MATTER comes before the Court following the hearing held on February 9, 2023, and on Defendants' *Motion to Suppress Evidence Derived as a Result of a Search Warrant for Unit 2, Lot 28 in Costilla Meadows, Taos County, New Mexico and Memorandum in Support Thereof* ("Motion") (Doc. 471). Defendants have requested an evidentiary hearing to fully address the issue of standing.

Defendants, as proponents of the Motion, bear the burden of proving that their Fourth Amendment rights were violated, which includes proving that they had a reasonable expectation of privacy in the area searched. *See Rakas v. Illinois*, 439 U.S. 128, 130 n.1 (1978); *United States v. Rascon*, 922 F.2d 584, 586 (10th Cir. 1990). "Standing is analyzed based upon two factors: 'whether the individual, by his conduct has exhibited an actual (subjective) expectation of privacy,' and 'whether the individual's subjective expectation of privacy is one that society is prepared to recognize as reasonable.'" *United States v. Rubio-Rivera*, 917 F.2d 1271, 1274 (10th Cir. 1990) (quoting *Smith v. Maryland*, 442 U.S. 735, 740 (1979) (internal quotations omitted)). The Court

must look at all the facts and circumstances to determine whether defendant's subjective expectation of privacy is legitimate. Important considerations may include ownership, lawful possession, or lawful control of the place searched. *United States v. Abreu*, 935 F.2d 1130, 1133 (10th Cir. 1991).

The Court will hold an evidentiary hearing on the issue of whether Defendants have standing to assert the various suppression issues raised in the Motion on March 28, 2023, at 9:00 a.m., before the Chief United States District Judge William P. Johnson, at the Pete V. Domenici Courthouse, Cimarron Courtroom, 333 Lomas Blvd., Albuquerque, New Mexico. Should it become necessary, the Court will reserve the morning of March 29, 2023, to conclude the previous day's hearing. For purposes of the hearing, counsel are ordered to submit Requested Findings of Fact and Conclusion of Law no later than the close of business on March 21, 2023. Defendant Jany Leveille is permitted, but not required, to attend the hearing and counsel for Defendant Leveille is permitted, but not required, to submit Requested Findings of Fact and Conclusions of Law, appear, and participate in the hearing.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'William P. Johnson', written over a horizontal line.

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE